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May 25, 2017

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Filing,
Zipwhip, Inc., WC Docket No. 95-155; WT Docket No. 08-7**

Dear Ms. Dortch:

On May 23, 2017, John Lauer and James Lopic of Zipwhip, Inc. and Steve Augustino and Avonne Bell of Kelley Drye & Warren LLP met separately with Jay Schwarz, Wireline Advisor to Chairman Pai; and the following members of the Federal Communications Commission's ("Commission") Wireless Telecommunications Bureau ("WTB") and Wireline Competition Bureau ("WCB"): Pramesh Jobanputra, Betsy McIntyre, E. Alex Espinoza, Ann Stevens, Jennifer Salhus, Matt Warner, Michael Janson, and Heather Hendrickson (by phone).

During the meeting, we discussed Somos' petition for declaratory ruling seeking new rules that would require registration of text-enabled toll-free numbers.¹ We explained that the rules sought by Somos are procedurally improper, not wise policy, and unnecessary for this still nascent technology and ever-evolving marketplace. We expressed that the changes Somos seeks would require a new rulemaking as it would represent a significant expansion of the scope of the Commission's existing rules for the management of toll-free number assignment for voice services. In addition, Somos' request would establish a regulation-mandated monopoly for its

¹ Petition of Somos, Inc. for a Declaratory Ruling Regarding Registration of Text-Enabled Toll-Free Numbers, WC Docket No. 95-155 (filed Oct. 28, 2016) (Petition). See Public Notice, Wireline Competition Bureau Seeks Comment on Somos, Inc. Petition for Declaratory Ruling Regarding Registration of Text-Enabled Toll-Free Numbers, DA 16-1259 (rel. Nov. 4, 2016).

KELLEY DRYE & WARREN LLP

Ms. Marlene H. Dortch
May 25, 2017
Page 2

Text and Smart Services (“TSS”) registry, giving it a leg up on all other verification methods. More importantly, this approach would undercut the core principle — that the subscriber controls the use of its number — the toll-free messaging industry has coalesced around and replace that with RespOrg control.

We further noted that phone numbers, toll-free and non-toll-free, are being used in a variety of other contexts as identifiers without being regulated and the Commission should not create a dichotomy by carving out rules for the use of toll-free numbers as identifiers for texting. We also highlighted that existing industry verification methods are working and that there are no actual examples of a subscriber having their toll-free number text-enabled without its permission. Industry consensus guidelines are in place that outline best practices for validating subscriber identity and ownership of a toll-free number. Additionally, in the meeting with WTB and WCB personnel we discussed the spam mitigation techniques for texting being employed by Zipwhip and the industry as a whole.

We concluded by emphasizing that for all the reasons discussed Somos’ Petition is contrary to Chairman Pai’s regulatory philosophy and should not be granted. The attached slides were presented at the meetings.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven A. Augustino". The signature is stylized with a large, sweeping initial "S" and a long, horizontal flourish at the end.

Steven A. Augustino

Counsel to Zipwhip, Inc.

Enclosure

cc: Commission personnel listed above